

VZCZCXRO9968
PP RUEHCHI RUEHDT RUEHHM RUEHNH
DE RUEHKL #0596/01 1981006
ZNY CCCCC ZZH
P 171006Z JUL 09
FM AMEMBASSY KUALA LUMPUR
TO RUEHC/SECSTATE WASHDC PRIORITY 2994
INFO RUCNASE/ASEAN MEMBER COLLECTIVE

C O N F I D E N T I A L SECTION 01 OF 02 KUALA LUMPUR 000596

SIPDIS

FOR EAP/MTS AND G/TIP

E.O. 12958: DECL: 07/17/2019
TAGS: [KTIP](#) [KCRM](#) [KWMN](#) [MY](#) [PGOV](#) [PHUM](#) [PREL](#) [SMIG](#)
SUBJECT: INCREASED GOM RESPONSIVENESS ON TIP

REF: KL 583

Classified By: ADCM Marrie Schaefer for reasons 1.4 b and d.

Summary

11. (C) In recent weeks the GOM has shown notably increased responsiveness on TIP issues. At a meeting with the Ambassador on July 13 (reftel), Attorney General Gani reached out to us for assistance and active involvement, extending an invitation for emboffs to sit in at an unprecedented July 15 meeting between AGC officials, other relevant GOM agencies, and, most notably, local NGOs, to develop strategies for addressing TIP. This meeting identified many obstacles to be overcome but also provided evidence of sincere efforts by GOM officials to confront these issues. Recent weeks have seen increased arrests in TIP-related cases and the Prosecutor indicated that arrests of numerous immigration officials are expected soon. End summary.

12. (C) Comment. There is no doubt that in the wake of the Tier 3 designation the GOM is making extensive efforts to demonstrate a commitment to making progress on TIP enforcement issues. Time will tell how well these intentions will be implemented in terms of prosecutions of officials, appropriate sentences and moves to identify and assist victims as well as begin work on longer term goals. We have made a priority to follow up and assist wherever possible in this process. End comment.
Unprecedented Engagement with NGOs

13. (C) LEGAT and acting Polcouns were invited by the AGC to attend as observers the first meeting of the "Legal Committee of Anti-trafficking in Persons" at the Attorney General's Chambers (AGC) on July 15. The meeting was chaired by Head Prosecutor Tun Majid, who stressed that this committee did not supplant the cabinet-level National Council for TIP issues, chaired by the DPM. Attendees included representatives of the Police, Internal Security, Immigration, Ministry for Women, Family and Community Development, and most notably, two NGOs, Tenaganita and NCWO (National Council of Women's Organizations). This constituted the GOM's first engagement with NGOs on the TIP issue at this level, and, as noted in Reftel, given the GOM's historical animosity toward NGOs such as Tenaganita, constitutes a major breakthrough.

Shelters a Key Issue

14. (C) As Tun Majid indicated, a key ingredient of successful prosecutions under TIP is provision of shelters to securely house the victimized witnesses. The Women's Ministry has established shelters for vulnerable women and children but the need to shelter men victims of labor trafficking has not been addressed. In practice, because

they have no accommodation or means of support , men victims of TIP are typically deported before they could provide testimony in any prosecutions of traffickers. Majid noted a plan for government quarters to be converted for this purpose, currently awaiting approval from the Prime Minister,s office and involving numerous bureaucratic and financial issues . As the discussion progressed it became clear that the red tape involved would significantly delay the opening of government shelters for men . Majid stressed that the government quarters could be a long term solution but there was no time to wait for the bureaucratic processes required-- more immediate action was needed if he was to order that all cases involving foreign workers be prosecuted under TIP.

15. (C) Majid asked if Tenaganita, which currently operates shelters for women and children, could assist the GOM in the meantime by opening shelters for men. Tenaganita TIP coordinator Aegile Fernandez cautioned that much greater numbers were involved in labor trafficking, that such shelters would require government gazetting to provide the necessary legal safeguards, and financing also would be an issue. Majid said he could insure that Tenaganita would be reimbursed by the government, and suggested that the gazetting issue could be put off. Women,s Ministry representatives seemed wary of such a solution, questioning whether their protection officers could be responsible for TIP victims being sheltered by non-government organizations and adding that any decision on this matter has to come from the National Council for TIP issues. Tun Majid expressed confidence these obstacles could be overcome and asked for responses on these issues in a week,s time.
Immigration an obstacle

KUALA LUMP 00000596 002 OF 002

-- -- -- -- --
16. (C) It was clear from the proceedings of this meeting that lack of knowledge and the traditional approaches to these issues by immigration officials were major obstacles to progress on TIP enforcement. Immigration has targeted only one link in the TIP chain-- the migrant laborer victims-- for deportation and detention, but has not focused on the employers or agencies involved. A frustrated Majid, complaining that immigration officials were mired in bureaucratic inertia regarding TIP, "ordered" the representative from Immigration to ensure that this approach be changed but the Immigration official argued that there was no basis in law to go after the employers or agencies. The NGO representatives pointed out that labor permits often were not in name of actual workplace but in name of agencies and frequently even some agency names were false. The immigration representative conceded that there was no monitoring of where the workers actually ended up. NGO representatives stressed that unfortunately bringing in foreign workers under false pretenses was a very lucrative business, for agencies both here and in the source countries, as well as for the factory managers. ((Note. Other embassy sources also stress that the Malaysian foreign worker recruitment agencies have good connections to ruling party and GOM officials. End note)).
TIP Prosecutions-progress to date

-- -- -- -- --
17. (C) Majid said in regard to prosecutions under the TIP law there were:
--16 pending trials.
--13 cases under investigation.
-7 cases that could not proceed due to victims unwilling to testify.
-3 cases determined not to be trafficking.
-Some cases under state prosecution being done under the normal penal code..
He said police investigations of immigration officials involved in TIP currently were underway and he expected results in the coming days.
KEITH